

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

IN RE:	)	
	)	Case No. 3:19-bk-01971
CAPSTONE PEDIATRICS, PLLC,	)	Chapter 11
	)	Judge Mashburn
Debtor.	)	

**DECLARATION OF GARY GRIFFIETH AND WINNIE TOLER IN  
SUPPORT OF MOTION FOR ENTRY OF ORDER DETERMINING THAT  
THE APPOINTMENT OF A PATIENT CARE OMBUDSMAN IS NOT NECESSARY**

Declarants, Gary Griffieth, MD and Winnie Toler, Ph.D., both having reached the age of majority and having personal knowledge of all facts contained herein, state the following:

1. Gary Griffieth, MD is a fully licensed pediatric physician and Chief Executive Officer of the Debtor. Winnie Toler, Ph.D. is the Chief Operating Officer of the Debtor. The Affiants have many years of experience in the health care industry and are uniquely qualified to oversee the operations of the Debtor. The curriculum vitae for each Affiant is attached hereto as collective Exhibit A.

2. The cause of the Debtor's bankruptcy filing was unrelated to patient care issues and there is no evidence the financial difficulties have impacted the practice's ability to provide quality patient care. Since acquiring the practice in 2013, the Debtor has placed a premium on providing the best patient care possible.

3. The physicians, nurses, and medical staff employed by the practice are in good standing with the State of Tennessee and applicable Tennessee licensing boards.

4. The Debtor is not under investigation by any governmental or regulatory authorities, and all systems, procedures, and protocol is compliant with applicable law. There have not been any reports made against the Debtor regarding any professional malfeasance or abuse.

5. The Debtor's patients are typically minors, but such patients have parents or guardians who assert rights on behalf of the patients.

6. The Debtor's patients have choices as to their pediatric provider in the Nashville area and are not dependent on the Debtor to provide care.

7. The interests of the patients are closely aligned with the Debtor's business interests, as the business only prospers if the interests of the patients are well-served.

8. The practice does not provide invasive surgery or critical care, and it safeguards all patient records.

9. The Debtor is subject to the Health Insurance Portability and Accountability Act (HIPAA). The Debtor complies with HIPAA and Tennessee law regarding the retention of patient records. The Debtor secures and maintains patient records in the office for a minimum of 20 years. Most of the patient information that is used in the day-to-day operations of the practice is stored electronically, and hard copy printouts of patient information are used sparingly to help safeguard patients' privacy. Prior to employment, the Debtor's employees sign an acknowledgement that the practice is subject to HIPAA and that they will not disclose patient information.

10. The Debtor is fully licensed to operate its facilities. The Debtor's insurance policies in connection with the practice are current.

11. There is no danger of a reduction in the level of patient care during the pendency of the bankruptcy. There are many internal mechanisms and safeguards to ensure the patients receive proper care.

12. Further, in the event Capstone were to cease operations completely, Capstone has a plan to transition patients to alternative providers. In this regard, Capstone has open

communication with its major payors, all of which are aware of Capstone's current financial situation. The majority of Capstone's patients are TennCare members. To the extent that Capstone is unsuccessful with selling the assets of Capstone as a going concern, Capstone will work with each major payor to transition its patients to alternative providers in the community. Typically, it would take approximately five (5) days for the payors and Capstone to each notify members of the change in provider and transition their care to another provider. Capstone would also provide an electronic copy of each patient's Electronic Health Record to the payors and to TennCare (HCFA).

13. The costs of the appointment of an ombudsman would be detrimental to the reorganization.

We declare under penalty of perjury that the foregoing statements are true and correct.

This Declaration was executed in the United States on April 24, 2019.

**CAPSTONE PEDIATRICS, PLLC**

/s/ Gary Griffieth  
Gary Griffieth, MD

/s/ Winnie Toler  
Winnie Toler, Ph.D

# EXHIBIT A

## Gary Gaston Griffieth, MD

9045 Keats Street  
Franklin, TN 37064

[ggriffieth@capstonepediatrics.com](mailto:ggriffieth@capstonepediatrics.com) (business)

[griffny@hotmail.com](mailto:griffny@hotmail.com) (personal)

(615)-785-8288 – office

(518) 573-6858 – cell

### EDUCATION

1977-1980 Albert Einstein-Bronx Municipal Hospital, Bronx, NY  
Internship and Residency in Pediatrics

1972-1977 Yale Medical School, New Haven, CT  
M.D. degree awarded

1968-1972 Stanford University, Stanford, CA  
B.A., Psychology

### LICENSURE

Tennessee 48969  
DEA BG 0601701

### CERTIFICATION

Board Certified General Pediatrics – recert expected 2019  
Board Certified Developmental Behavioral Pediatrics – recert expected 2019

### EXPERIENCE

October 2013-present **Capstone Pediatrics, PLLC**  
**CEO and Chief Medical Officer**  
Nashville, TN  
Principal Owner and Executive of largest General Pediatrics group in the Middle Tennessee area with 10 locations. Subspecialty services of Developmental Behavioral Pediatrics, Behavioral Health, Adolescent GYN and Audiology. Recent addition of Adult Weight Management and Well care.

**Specialists in Pediatric & Adolescent Health**  
Providing developmental-behavioral pediatrics assessments and specialty care.

2014-present **Medical Consultant to Youth Villages**  
Nashville and Clarksville, TN  
Monthly consultation and medication management of children within the Youth Villages group home and foster care programs.

2007-2013 **CapitalCare Developmental-Behavioral Pediatrics**  
Clifton Park, NY

**Board Certified Developmental-Behavioral Pediatrics**  
Co-Founder of developmental-behavioral pediatric practice utilizing testing and other assessments of children with developmental and behavioral problems.

2003-2007 **Developmental Pediatrics**  
Latham, NY  
**Developmental Pediatrician**  
Developmental-Behavioral Pediatrician seeing children with wide range of developmental and behavioral disabilities and conditions.

1994-2013	<p><b>CapitalCare Medical Group - Pediatrics</b>  Clifton Park, NY  <b><i>Board Certified Pediatrician</i></b>  Part owner of multi-physician pediatric group. Member of original Steering Committee to found Capital Health Care Group (later known as CapitalCare Medical Group), a fully integrated primary care medical group. Worked closely with management consultant group KPMG Peat Marwick on a bi-weekly basis for six months to discuss and draft organizational structure for governance, allocation of decision making responsibilities and physician compensation.</p>
1989-1994	<p><b>East Oakland Christian Pediatrics</b>  Oakland, CA  <b><i>General Pediatrician</i></b>  Worked as a solo practitioner. Was a member of the Steering Committee of <u>Children's First</u>, a physician/hospital organization (PHO) of several hundred members. During bi-weekly meetings, I met with other committee members to outline and define rationales for affiliation, set objectives, goals and constraints and formulate economics of collaboration and other factors critical for success.</p>
1985-1989	<p><b>East Oakland Pediatric Group</b>  Oakland, CA  <b><i>General Pediatrician</i></b>  Partner in a three-man pediatric group.</p>
1981-1985	<p><b>North Oakland Pediatric Group,</b>  Oakland, CA  <b><i>General Pediatrician</i></b>  Full-time pediatrician with office and hospital duties.</p>
1981 ( <i>eight months</i> )	<p><b>East Oakland Family Health Center</b>  Oakland, CA  <b><i>General Pediatrician</i></b>  Full-time pediatrician with National Health Service Corps. Implemented health care guidelines for pediatric health care maintenance.</p>
1980-1981	<p><b>West Berkeley Health Center</b>  Berkeley, CA.  <b><i>General Pediatrician and Medical Director</i></b>  Daily clinical duties, designed and implemented health care plans for adults and children. Established procurement procedures, formulated guidelines for systematic retrieval of all clinical and laboratory data. Performed bi-weekly teaching to the medical and nursing staff.</p> <p><i>Faculty Clinical Preceptor, University of California Davis, Family Nurse Practitioner Program, Davis, CA.</i>  Had direct clinical supervision and teaching responsibilities for nurse practitioner students.</p>
1973 (Summer)	<p><b>West Berkeley Health Center Dental Clinic</b>  Berkeley, CA  <b><i>Consultant</i></b>  Co-author and consultant to community-based dental health Program</p>

## PROFESSIONAL AND COMMUNITY ORGANIZATIONS

- 1990-1993 *Board Member, Crisis Pregnancy Services, Berkeley, CA.*  
Pro-life organization for women in crisis surrounding pregnancy. This organization offered counseling, free prenatal care, parenting classes and community support as alternatives to abortion.
- 1994 *Vice-Chairman, Summit Medical Center, Department of Pediatrics, Oakland, CA.*  
Chaired monthly department meetings in chairman's absence. Was chairman of Quality Assurance committee and coordinated chart review of all department members. Instituted corrective and disciplinary procedures for pediatric staff (approx. 100 members).
- 1999-2012 *Committee Member, Credentials Committee of CDPHP*  
Monthly meetings with responsibility to credential and re-credential network physicians *large managed-care organization.*
- 1999-2003 *Advisory Board Member, Ellis Hospital School of Nursing*
- 2000-2001 *Committee Member of By-laws and Credentialing, Bellevue Women's Hospital.*
- 2005-2010 *Board Member Susan and Gary Dake Children's Foundation (formerly Coburn Foundation).* Assists children with developmental disabilities in funding for adaptive equipment, accessibility projects and community education.
- 2006-2013 *Member of Board of Managers of Capital Care Medical Group*  
54-member physician group of primary care providers.
- Fellow American Academy of Pediatrics*
- Member Medical Society of the State of New York*

## ACTIVITIES

- Medical missionary during summers of 1988, 1989 and 1991.*  
Under the auspices of Shiloh Christian Fellowship Church, Oakland, CA. Served the pediatric population of rural Mexican border towns. Organized temporary medical clinics to serve this population.
- Health Fair sponsored by William Pinckney Medical Assoc.*  
*Lecture on Attention Deficit Hyperactivity Disorder, 2003.*
- Health Fair sponsored by Saratoga County NAACP and Links, Inc*  
*Talk on Childhood Vaccinations – 2005*
- Organizer of 1<sup>st</sup> Barbershop Health Fair, October 2004 – meeting the health care needs of Afro-American males of all ages. Spearheaded additional Barbershop Health Fairs in 2006 and 2009.*
- Medical missionary to Kawangware, Kenya, June 2011, November 2012*

## **PRESENTATIONS**

Lecture - *Developmental Pediatrics: Evaluation and Trends*  
Tinsley Institute for Human Services, Troy, NY - January 2008

Lecture - *Recognizing Mental Health Issues in Young Children: A Medical and Developmental Perspective*– Hudson Valley  
Community College – April 2010

Lecture – *Mental Health Issues in Children and Infants* – Clifton Park, NY April 2012

Keynote Speaker – *HIV/AIDS and the Black Church* – Macedonia Baptist Church, Albany, NY June 2013

Lecture – *ADHD 2.0* – Lake Providence Missionary Baptist Church – 7<sup>th</sup> Annual Health Fair, Nashville, TN September 2016

## **LANGUAGES**

Strong knowledge and fluency in Spanish language

## **PAPERS**

Shaywitz BA, Griffieth GG, Warshaw JB: Hyperactivity and cognitive deficits in developing rat pups born to alcoholic mothers: An experimental model of the expanded fetal alcohol syndrome, *Neurobehavioral Tox* 1:113, 1979.

Experimentally produced fetal alcohol syndrome in the laboratory rat: A behavioral and biochemical assessment, Yale Medical School Thesis, 1977.

## **AWARDS**

PTA Community Award – April 2011

First recipient of the Helping Hands Preschool Community Award – April 2013

# WINNIE TOLER, Ph.D.

1221 Kilrush Dr., Franklin, TN 37069

[wtoler@capstonepediatrics.com](mailto:wtoler@capstonepediatrics.com)

Tele: 615-339-8110

## Executive Leadership

Healthcare Executive with extensive managed care management experience in both public and private sector organizations. Proven startup and business development acumen, creating definition and achievable goals. In-depth knowledge and experience in behavioral, physical health, ABD, SNP, and long term services and supports delivery models of care. Utilize contract strategy and negotiations to develop delivery network of providers. Strong background in business operations, from system configuration to decision support and budget oversight.

## Core Leadership Competencies

- Business Startup & Development
- Streamlining Operations
- Public Sector Expertise
- System Evaluation & Configuration
- Strategic Goal Definition
- Best Practices Compliance

## PROFESSIONAL EXPERIENCE

**CAPSTONE PEDIATRICS, PLLC** Nashville, TN 2013 – current

*Pediatric and Adolescent Health Care medical offices throughout Middle Tennessee.*

### Chief Operating Officer

- **Responsible for all non provider activities: managed care contracting, vendor negotiations, budgeting, Quality Improvement, Billing, Credentialing, Scheduling, Reporting**
- **Meaningful Use – 100% successful participation for all years**
- **Operations restructuring saved \$1.3 M in annual lease costs, centralized call center/inreach activities resulting in improved average speed to answer and abandonment rate, streamlined medical supply process**
- **EHR System conversions and configurations**
- **HEDIS and Total Cost of Care Efficiency; Obtained 5 out of 5 stars for both Quality (HEDIS) and Total Cost of Care**

**CAPSTONE HEALTHCARE CONSULTING, LLC** Franklin, TN 2012 – current

*Boutique consulting firm focused on health care business development, operations, state Medicaid procurement and implementation, strategic planning for multiple products and stakeholders.*

### Chief Executive Officer

*Selected Clients:*

- State Medicaid Agencies
- Medicaid Managed Care and MA SNP Plans
- Community Mental Health Agencies
- Long Term Services and Support Agencies
- Post-Acute and Transition of Care Company

**UNITEDHEALTHCARE COMMUNITY PLAN OF TENNESSEE**, Brentwood, TN 2008 – 2012

*Public sector managed health care company for 580,000 Medicaid, ABD, LTC, MA SNP covered lives and \$2.8 B in revenue*

### Chief Operating Officer

Responsible for provider service and member outreach, provider operations, network strategy, marketing, MA SNP sales, behavioral health integration, long term care (care coordinators and business operations), FBDE integration, and overall Plan operations.

*Selected Achievements:*

- Identified process gap resulting in \$11M in retro payments for the SPMI and SED population
- Implemented business process change in support of correct Hospice reimbursement; resulting in a \$3M recoupment due to overpayments.
- Managed a successful member and provider outreach strategy for both Medicaid (TennCare) and MA SNP resulting in a 40% improvement in member retention.
- Successfully implemented ER Payment Reimbursement Policy; projected annual savings of \$19M.
- Successfully implemented Managed Long Term Care (CHOICES) for over 16,000 members statewide.



## **WINNIE TOLER**

- Working with TennCare (State Medicaid) to transfer all full benefit dual eligibles to health plan.
- Executive leadership team member responsible for IOI of 140% inc over budget (FY 2010) and 39% inc over budget (FY 2011)

### **WELLCARE HEALTH PLANS, INC., Tampa, FL, 2007 – 2008**

*Provides managed-care services exclusively for government-sponsored healthcare programs for TANF, ABD, PDP.*

#### **Vice President, Market Development**

Recruited as thought leader to create and manage the strategic approach to acquisition of new business, including review of the programmatic / regulatory environment, analysis of the overall market, and generation of corporate responses to state requirements.

### **BUREAU OF TENNCARE, STATE OF TENNESSEE, Nashville, TN, 2004 – 2007**

*Tennessee's managed care insurance program for 1.3 million people who are poor, disabled, or uninsured.*

#### **Chief Network Officer**

Management and oversight of eight managed care organizations (MCO) and, with the Department of Mental Health and Developmental Disabilities, the program's two behavioral health organizations (BHO). Negotiated contracts with MCOs / BHOs, monitored contract compliance, and refined MCO performance measures. Redesigning MCO contract in support of integrated physical and behavioral health product. Procured and implemented two new integrated MCOs supporting more than 350,000 covered lives. Appointed to the Governor's e-Health Advisory Council.

#### **Selected Achievements:**

- Key senior leader assigned to develop and operationalize contract initiatives to move all MCOs from "ASO" to shared risk arrangement with Bureau of TennCare, resulting in projected annual medical savings of more than \$100 million and significant increase in federal match.
- BHO contract resulted in \$40 million annual savings, 50% of which was retained by state of Tennessee.

### **CONSULTANT, Franklin, TN, 2003 – 2004**

*As independent contractor, consulted with various healthcare companies and hospitals to complete due diligence and design business management.*

#### **Selected Achievement:**

- Prepared and presented business plan for start-up regional HMO for commercial and Medicare product lines to various investment bankers / brokers for acquisition of capital.

### **UNIVERSAL CARE OF TENNESSEE, INC., Nashville, TN, 2000 – 2003**

*A managed care organization (MCO) providing healthcare benefits to Medicaid, uninsured, uninsurable, disabled, and dual-eligible enrollees.*

#### **Chief Operating Officer**

Overall administration of start-up managed care organization. Developed and implemented strategy for network development activities. Established local claims specialty unit to research and reprocess claims. Trained staff on Medicare reimbursement strategies and payment guidelines. Oversaw all decision support activities. Liaison to TennCare Bureau and TDCI on contract compliance and operational issues.

#### **Selected Achievements:**

- Reconfigured system setup for provider contracts, benefit categories, and fee schedules/pricing, improving consistency with regulatory requirements 20-25%.
- Successfully contracted 2,500 providers, maintaining 100% compliance to contract access standards.

### **MEHARRY MEDICAL SERVICES FOUNDATION, Nashville, TN, 1999 – 2000**

*Subsidiary of Meharry Medical College, provides billing and collections, credentialing, managed care contracting, vendor contracting, medical clinic operations, financial analysis and reporting, health information management, and new business development.*

#### **Executive Director / Chief Operating Officer**

Managed daily clinic and business operations and strategic planning for 146-member faculty practice plan. Successfully negotiated managed care contracts. Established and maintained key relationships with all MCO payers.

#### **Selected Achievements:**

- Streamlined all operational areas, resulting in 16% savings in overall administrative costs.
- Redesigned patient billing and collections operations, resulting in a 40% increase in collected revenue.
- Reduced days in A/R more than 35% and increased net collections more than 50%.

## WINNIE TOLER

### **COLUMBIA / HCA HEALTHCARE CORPORATION, 1995 – 1998**

*Largest private operator of healthcare facilities in the world with annual revenue exceeding \$25 billion and 134,000 employees.*

**Chief Operating Officer** (1996 – 1998)

**Director, Business Development and Operations** (1995 – 1996)

Promoted to start up operations of risk-bearing MSO for all integrated delivery networks implementing risk contracts for Florida region. Consulted on network medical services budget development, risk pool structures, and provider contracting / reimbursement strategies.

### **ADDITIONAL WORK HISTORY**

**KAISER PERMANENTE MEDICAL CARE PROGRAM, Oakland, CA**

1991 – 1995

**Various management positions: Management Information and Financial Analysis; Revenue Accounting and Control**

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### **EDUCATION**

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**Ph.D. / M.A., MICHIGAN STATE UNIVERSITY, East Lansing, MI**

**B.A., UNIVERSITY OF CALIFORNIA – BERKELEY, Berkeley, CA**